

REMARKS

The Official Action mailed July 11, 2005, has been received and its contents carefully noted. Filed concurrently herewith is a *Request for Two Month Extension of Time*, which extends the shortened statutory period for response to December 12, 2005. Accordingly, the Applicants respectfully submit that this response is being timely filed.

The Applicants note with appreciation the consideration of the Information Disclosure Statements filed on March 1, 2002; June 4, 2002; October 3, 2002; April 11, 2003; and December 16, 2003.

Claims 19-26 and 35-58 were pending in the present application prior to the above amendment. Claims 19, 23-25, 35, 41, 43, 51 and 57 have been amended to better recite the features of the present invention, and new claims dependent 59-62 have been added to recite additional protection to which the Applicants are entitled. Accordingly, claims 19-26 and 35-62 are now pending in the present application, of which claims 19, 35, 43 and 51 are independent. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

Paragraph 2 of the Official Action rejects claims 1-34 as anticipated by U.S. Patent No. 5,313,075 to Zhang et al. Paragraph 3 of the Official Action rejects claims 1-34 as anticipated by JP 04-165679 to Yamazaki. Yamazaki '679 is a publication of an application related to Zhang. The Applicants respectfully submit that an anticipation rejection cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP § 2131, to establish an anticipation rejection, each and every element as set forth in the claim must be described either expressly or inherently in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The independent claims have been amended to recite an interlayer insulating film, which is supported in the specification, for example, at page 13, lines 21-31. The

interlayer insulating film is formed over a transistor and includes the claimed concentration levels of halogen and carbon. The claims have also been amended to remove features which are not believed to be critical to the patentability of the claims. The Applicants respectfully submit that Zhang or Yamazaki '679 does not teach the above-referenced features of the present invention, either explicitly or inherently. More specifically, these references have been relied upon for teaching the claimed concentrations in a gate insulating film and not in an interlayer insulating film.

Since Zhang or Yamazaki '679 does not teach all the elements of the independent claims, either explicitly or inherently, an anticipation rejection cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 102 are in order and respectfully requested.

Paragraph 3 of the Official Action also rejects claims 1-34 as obvious based on the combination of Yamazaki '679 and JP 04-032267 to Chiyou. Yamazaki '679 and Chiyou are publications of applications related to Zhang. The Applicants respectfully submit that a *prima facie* case of obviousness cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP §§ 2142-2143.01, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole

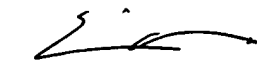
would have suggested to those of ordinary skill in the art." In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Please incorporate the arguments above with respect to the deficiencies in Yamazaki '679. Chiyou does not cure the deficiencies in Yamazaki '679. The Official Action relies on Chiyou to allegedly complete the disclosure of Yamazaki '679, which together appear to form the basis for Zhang. However, Yamazaki '679 and Chiyou, either alone or in combination, do not teach or suggest an interlayer insulating film. Since Yamazaki '679 and Chiyou do not teach or suggest all the claim limitations, a *prima facie* case of obviousness cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

New claims 59-62 have been added to recite additional protection to which the Applicants are entitled. For the reasons stated above and already of record, the Applicants respectfully submit that new claims 59-62 are in condition for allowance.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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